

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

<b>MARLIN HERBST,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No. 5:17-cv-04008-MWB</b>
	)	
<b>v.</b>	)	<b>PLAINTIFF'S RESPONSE TO</b>
	)	<b>DEFENDANT GIVAUDAN FLAVORS</b>
<b>BUSH BOAKE ALLEN INC., et al.</b>	)	<b>CORPORATION'S STATEMENT OF</b>
	)	<b>FACTS IN SUPPORT OF ITS</b>
<b>Defendants.</b>	)	<b>MOTION FOR SUMMARY</b>
	)	<b>JUDGMENT</b>

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Pursuant to L.R. 56.01(b)(3), Plaintiff submits his Response to Defendant Givaudan Flavors Corporation's Statement of Facts in Support of its Motion for Summary Judgment.

1. Admit.
2. Admit that during his employment at American Popcorn, Plaintiff Marlin Herbst was exposed to diacetyl-containing butter flavorings. (Ex. 28, App. 0159-0181, Affidavit of Dr. Charles Pue, with accompanying reports).
3. Admit that Plaintiff Marlin Herbst has been diagnosed with bronchiolitis obliterans as a result of his exposures to diacetyl-containing flavorings while employed at the American Popcorn plant. (Ex. 10, App. 0054, Affidavit of Marlin at ¶13); (Ex. 28, App. 0159-0181, Affidavit of Dr. Charles Pue, with accompanying reports).
4. Admit.

Date: March 26, 2018

Respectfully submitted,

s/ J'Nan C. Kimak

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**ATTORNEYS FOR PLAINTIFF**

## **CERTIFICATE OF SERVICE**

I hereby certify that on March 26, 2018 I electronically filed the foregoing with the Court using the Court's CM/ECF system which sends notification of same to all counsel of record also listed below:

*s/ J'Nan C. Kimak*

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